IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:09-HC-2161-D

UNITED STATES OF AMERICA,)
Petitioner,)
v.	ORDER
LEE EDWARD SHELTON,)
Respondent.)

Lee Edward Shelton ("Shelton" or "respondent") is confined at the Federal Correctional Institution in Butner, North Carolina, awaiting a hearing on the government's petition for commitment under 18 U.S.C. § 4248 [D.E. 1]. On December 15, 2010, Shelton filed a motion to dismiss for lack of jurisdiction [D.E. 9]. On January 5, 2011, the government responded in opposition [D.E. 10]. On January 28, 2011, Shelton filed a motion for a hearing to determine the merits of the commitment action [D.E. 12]. On February 1, 2011, the court entered a scheduling order [D.E. 13], and on May 6, 2011, the court granted Shelton's motion for a hearing on the merits [D.E. 20]. The parties have commenced discovery, which is scheduled to conclude no later than December 2, 2011 [D.E. 40].

Shelton contends that the government's petition for his commitment should be dismissed because he was convicted under the District of Columbia Official Code. Mot. Dismiss 1–2. Therefore, Shelton argues that he was not "in the custody of the Bureau of Prisons" as required by 18 U.S.C. § 4248(a) to confer jurisdiction. <u>Id.</u> at 2–9. Another court in this district has considered and rejected the same arguments raised by Shelton. <u>See United States v. Johnson</u>, No. 5:09-HC-2045-BO, 2011 WL 2118108, at *3–6 (E.D.N.C. May 27, 2011) (unpublished). This court finds the

reasoning of <u>Johnson</u> persuasive. Therefore, the court DENIES respondent's motion to dismiss [D.E. 9].

SO ORDERED. This 16 day of September 2011.

JAMES C. DEVER III

United States District Judge